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C O N F I D E N T I A L SECTION 01 OF 03 BOGOTA 003555

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SENSITIVE

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SUBJECT: DEMOBILIZATION LAW APPROVED IN COMMITTEE

REF: BOGOTA 03223

Classified By: Ambassador William B. Wood for reasons
1.4 (b) and (d)

Summary

1. (C) On April 12, the Senate and House First Committees finished voting on the Law for Justice and Peace, including on the three most controversial articles (refel). The changes made to the text provide added safeguards for our ability to extradite drug traffickers. Article 2 on the scope of the law was passed and does not include any reference to an armed conflict. Article 20 was passed. It allows authorities to combine all charges against a beneficiary for procedural reasons only. Language allowing a possible loophole to avoid extradition was removed. Article 64 was rejected, although it is likely to return in another form. It had said that belonging to a paramilitary group was an act of sedition and a political crime. Instead, an alternative article was passed that allows demobilized persons to be pardoned for certain minor, non-violent crimes. Article 67 on the law's time frame passed easily. Three new articles were approved: (1) the GOC will allocate necessary funding to the existing asset forfeiture law, (2) the GOC will provide education, employment projects, counseling to the demobilized, and (3) the Superior District Court magistrates implementing the law will be elected by the Supreme Court. There will be an eight calendar day waiting period until the Senate and House plenaries take up the debate. End summary.

Article 2: No Armed Conflict

2. (C) Article 2 describes the scope of the law and specifies it will regulate investigation, processing, sanction, and legal benefits for members of illegal armed groups (IAGs), who demobilize and contribute to national reconciliation. The article avoids reference to an "armed conflict," which had been a key GOC objective. On April 11, the article passed the House and Senate First Committees with little debate. During earlier debates, Senator Rafael Pardo and his supporters had argued that article 2 should be replaced with article 8 from their rival draft, which acknowledged the existence of an "armed conflict."

Article 20: "Conexidad" Removed

3. (C) Article 20 allows the Superior District Court to combine all legal proceedings against a beneficiary into one case. The original article was entitled "connectivity and accumulation of proceedings and punishments." Several Congressmen had complained that the term "connectivity" would have allowed beneficiaries to claim that their major crimes, including drug trafficking, were connected to their pardonable crimes and therefore blocked from extradition. GOC ally Representative Roberto Camacho proposed new text that removed the term "connectivity" and stated that the combination of proceedings was for procedural reasons only. The article's new text was approved.

Article 64: Pardon But No Political Crimes

4. (C) Article 64 was rejected. It had said that belonging to a paramilitary group was an act of sedition, and that sedition was a political crime and would carry the same punishment as rebellion against the state. According to the current criminal code, paramilitarism is a common crime and insurgency (guerrilla groups) is a political crime. Common crimes are not pardonable under Law 782. The GOC had claimed that the article was needed to give paramilitaries and guerrillas equal treatment under Law 782. Some claimed that allowing membership in a paramilitary group to be a political crime would enable paramilitaries to claim that drug trafficking was also a political crime and therefore not extraditable.

15. (C) On April 12, an alternative article was approved. It states that demobilized persons can be pardoned for conspiracy to commit a crime, illegal carrying of arms, illegal use of uniforms or insignias, and other benefits in article 343 of the normal criminal code. Article 343 states that the jail term for acts of terrorism is ten to 15 years, but specifies that the sentence for intimidating or threatening via telephone, tape, video, or anonymous letters is two to five years. Minister of Interior and Justice Sabas Pretelt announced publicly that the GOC was satisfied with the new article, but that they would bring up the issue of sedition again in the plenary.

Article 67: Time Frame

16. (C) Article 67 specifies the law's time frame. Crimes committed after the bill becomes law will not be eligible for alternative sentences. For example, if an IAG demobilized after the bill became law, the members would only benefit for crimes they had committed before the law went in effect. A proposal to expand this time limit will be debated in the plenary.

Three New Articles

17. (C) Three new articles were approved:

-- The GOC and the Prosecutor General's Office will allocate sufficient funds for the application of the asset forfeiture law.

-- The GOC will enroll demobilized persons in psychological counseling and education or employment projects.

-- The magistrates of the Superior District Court who are responsible for the Law of Justice and Peace will be elected by the Supreme Court from a list of nominations provided by the Administrative Chamber of the Superior Council.

Rejected Articles

18. (C) Two newly proposed articles were rejected, primarily on the grounds of redundancy:

-- Demobilized persons cannot continue committing crimes or move to conflict areas. If they do so, they lose all benefits. Senator Pardo was one of the drafters of this proposal.

-- Once the peace process with the United Self Defense Forces of Colombia (AUC) or other IAGs becomes active, they cannot continue conducting private justice, kidnapping, terrorism, extortion, intimidation, or spreading the conflict. Reinsertion programs cannot be used for criminal activity.

Plenary Next

19. (C) There will be a minimum eight calendar day waiting period until the debates can begin in the House and Senate plenaries. During these debates, Congressional rules state the plenaries cannot introduce changes that are radically different from the text approved in Committee or that were not debated in Committee (a somewhat subjective standard). This regulation provides for some flexibility, but if the plenaries attempt to make major changes the law risks being nullified by the Constitutional Court on procedural grounds. (Although the Justice and Peace Law is normal legislation and will not automatically be cleared by the Constitutional Court, individual lawsuits against the law can bring it to the Court.)

Comment

110. (C) The changes to article 20 and the elimination of article 64 provide added safeguards for our ability to extradite drug traffickers.

WOOD